



MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, NOVEMBER 4, 2019, 6:00 P.M.
NEPTUNE BEACH CITY HALL, 116 FIRST STREET
NEPTUNE BEACH, FLORIDA

Pursuant to proper notice a Regular Meeting of the City Council of the City of Neptune Beach was held Monday, November 4, 2019, at 6:00 p.m. in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida

Attendance:**IN ATTENDANCE:**

Mayor Elaine Brown
Vice Mayor Fred Jones
Councilor Kerry Chin
Councilor Scott Wiley
Councilor Josh Messinger

STAFF:

Interim City Manager Leon Smith
City Attorney Zachary Roth
Director of Finance Peter Kajokas
Police Chief Richard Pike
Deputy Public Works Director Megan George
Code Compliance Supervisor Piper Turner
Community Development Director Kristina Wright
City Clerk Catherine Ponson

Call to Order

Mayor Brown called the meeting to order at 6:00 p.m. and Councilor Chin led the Pledge of Allegiance.

AWARDS / PRESENTATION / RECOGNITION OF GUESTS / NONE

APPROVAL OF MINUTES

Minutes

Made by Wiley, seconded by Chin.

MOTION: TO APPROVE THE FOLLOWING MINUTES:

October 7, 2019, Shade City Council Meeting; October 7, 2019, Regular City Council Meeting; October 11, 2019, Special City Council Meeting; October 12, 2019, Special City Council Meeting (8:30 a.m.); October 12, 2019, Special City Council Meeting (2:00 p.m.); October 17, 2019, Special City Council Meeting; October 21, 2019, Workshop City Council Meeting

Roll Call Vote:

Ayes: 5-Chin, Messinger, Wiley, Jones, Brown
Noes: 0

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE**CITY MANAGER REPORT**

City Manager Report Interim City Manager Smith reported the following:

- He introduced the new Community Development Director, Kristina Wright.

Police Chief Report Police Chief Richard Pike reported that Cookies with a Cop would be held on Saturday, November 9, 2019, at Neptune House in Jarboe Park from 10:00 a.m. until noon. Movies with the Mayor is scheduled for November 23, 2019, at 6:30 p.m. with the Jacksonville Symphony Orchestra performing first at 4:30 p.m. He presented a monthly incident report that he would be handing out at the first council meeting each month.

Mayor Brown announced that Christmas in the Park would be held on Friday, December 6, 2019, at 6:00 p.m. and the Santa Ride through Neptune Beach would be on Saturday, December 21, 2019, at 9:00 a.m.

PUBLIC COMMENTS

Public Comment Rick Sauls, 126 Cedar Street, Neptune Beach, recommended the Council rescind the recent stormwater rate increase. He also requested the Council vote no on the Comprehensive Plan and Land Development Code (LDC) revision.

Ginny Thurson, 1200 7th Street, Neptune Beach, spoke regarding the Comprehensive Plan and LDC revision. She stated she didn't see how the City could spend that amount.

Mary Frosio, 1830 Nightfall Drive, Neptune Beach, read an email she sent in support of the Dover, Kohl contract. She stated that time needs to be taken to understand and communicate the scope of this project; the community would buy into it.

CONSENT AGENDA

Res. No. 2019-11, CDB Reappointment Resolution No. 2019-11, A Resolution Appointing Member to the Community Development Board (CDB).

Made by Messinger, seconded by Wiley.

MOTION: TO APPROVE THE CONSENT AGENDA

Roll Call Vote:

Ayes: 5-Messinger, Wiley, Chin, Jones, and Brown
Noes: 0

MOTION CARRIED**VARIANCES / SPECIAL EXCEPTION / DEVELOPMENT ORDERS / NONE****ORDINANCES**

Ord. No. 2019-10, R-4 Zoning District Lot Split Moratorium, Ordinance No. 2019-10, Chapter 27, Article III, Division 3, Sections 27-101-27-102; Division 4, Sections 27-105-27-109 and Sections 27-110, First Reading and Public Hearing, An Ordinance of the City Of Neptune Beach, Florida, Enacting A Temporary Moratorium To Prohibit The Acceptance or Processing of any Application for a Development Order or Any Other Official Action of the City Having the Effect of Permitting

or Allowing for the Application of a Plat or Replat in the R-4 Zoning District as set forth in Chapter 27, Unified Land Development Regulations, Division 3, Sections 27-101 through 27-102, Platting Requirements Chapter 27, Unified Land Development Regulations, Division 4 Section 27-105 through 27-109, Minor Replat Requirements, and 27-110 Temporary Moratorium; Providing for a Temporary Moratorium Term to be Extended if Necessary by the City Council; Providing for Early Termination; Providing for Conflicts; Providing for Severability; Providing an Effective Date.

Mayor Brown opened the public hearing. There being no comments from the public, the public hearing was closed.

City Attorney Zachary Roth explained that it had come up in various meetings that the City wanted to look at the situation with lot splits in the R-4 zoning district, particularly east of Third Street. This was due to the process that was being followed and concerns with preserving the character of Neptune Beach and issues with stormwater and sea level rise. He was approached by two separate Council members to investigate ways to evaluate that while the City is going through the rewrite of the Comprehensive Plan and Land Development Code. He recommended the moratorium of lot splits as opposed to a permanent resolution changing the width of the lot as it allows us to evaluate it as part of the overall global project. He added that it puts a hold on lot splits in the R-4 zoning district that would only result in more lots being created.

Councilor Wiley questioned the number of lots that this would affect and he added the owners of the lots are due notification that this is taking place. He also stated he does not see how this could not be the Bert Harris Act should someone file a claim against the City.

Vice Mayor Jones stated that the project with Dover, Kohl & Partners is not just a rewrite of the Comp Plan. It is also a Vision Plan, which is the biggest effort of the project. He added that in light of the concerns of resiliency and character, the temporary moratorium, even if extended, is a legitimate use of the moratorium as the City is showing action to address the issue.

Councilor Messinger agreed with Vice Mayor Jones and asked Mr. Roth to comment on the Bert Harris Act and this legislation.

Mr. Roth explained that there is an abundance of case law regarding how moratoriums are planning tools that are properly used by local governments. The alternative would be anytime an issue is identified, the City must make a permanent change and hope they don't get sued or the City is stuck with it. The key is that a moratorium is temporary and a change of the lot width or something similar is permanent and leaves the City exposed to a Bert Harris claim.

Councilor Messinger stated his concern is the loss of the community's character. He supports the moratorium while Dover, Kohl addresses the issues such as drainage, parking, and keeping the character intact.

Councilor Chin commented that this legislation, from his perspective is a compromise as he wanted to go back to the 50-foot lots. He added that he understands the intention of notifying the public. He stated that it is unreasonable to uphold the process of government hoping that everyone can be notified.

Mayor Brown stated that it was not asking a lot to notify the property owners.

Made by Messinger, seconded by Jones.

MOTION:

**TO PASS ORDINANCE NO. 2019-10, R-4 ZONING DISTRICT LOT
SPLIT MORATORIUM ON FIRST READ**

Roll Call Vote:

Ayes: 4-Chin, Messinger, Jones, and Brown

Noes: 1-Wiley

MOTION CARRIED

Ord. No. 2019-11, Nuisance Lighting Ordinance No. 2019-11, Chapter 28, Nuisances, Article III, Sections 28-11-28-15, First Reading and Public Hearing, An Ordinance of the City Of Neptune Beach, Florida, Amending Chapter 28, Nuisances, Amending Article III, Nuisance Lighting, Sections 28-11-28-15; and Providing an Effective Date.

Mayor Brown opened the public hearing. There being no comments from the public, the public hearing was closed.

Mr. Roth explained there no new regulations added. It has added definitions and language to clarify the City's intent.

Mayor Brown requested that in the process for applying for a permit, if there is a way to know what the final product is going to be.

Councilor Chin agreed that there should be some step in the permitting process to review the applications better. He asked if these changes would help in the current litigation.

Mr. Roth answered that they would as the complaint revolved around lack of clarity.

Mr. Roth confirmed Councilor Messinger's inquiry that the individual involved in the current litigation had requested the changes.

Councilor Messinger stated that there were a number of businesses that had addressed the sign issues and made adjustments and thanked those businesses.

Vice Mayor Jones stated that the definitions add clarity and he might add language regarding enforcement and using a light meter.

Councilor Wiley agreed with Mayor Brown regarding the permitting process. He stated the City should wait for a ruling on the current litigation before amending the ordinance.

Made by Messinger, seconded by Jones.

MOTION:

**TO PASS ORDINANCE NO. 2019-11, NUISANCE LIGHTING, ON
FIRST READ**

Roll Call Vote:

Ayes: 4-Chin, Messinger, Jones, and Brown

Noes: 1-Wiley

MOTION CARRIED

Ord. No. 2019-12, Code Enforcement Board
Ordinance No. 2019-12, Chapter 2, Administration, Article VII, Division 2, Section 2-440, First Reading and Public Hearing, An Ordinance of the City of Neptune Beach, Florida Amending Chapter 2, Administration, Amending Article VII, Boards and Commissions, Division 2, Code Enforcement Board, Section 2-440; and Providing an Effective Date.

Mayor Brown opened the public hearing. There being no comments from the public, the public hearing was closed.

Mr. Roth explained this would correct a reference to a section in the Code that does not exist. Section 2-276 should be Section 2-446.

Made by Messinger, seconded by Chin.

MOTION: **TO PASS ORDINANCE NO. 2019-12, CODE ENFORCEMENT, ON FIRST READ**

Roll Call Vote:

Ayes: 5-Messinger, Wiley, Chin, Jones, and Brown
Noes: 0

MOTION CARRIED

OLD BUSINESS / NONE

NEW BUSINESS

Settlement Agreement, 1229 Forest Oaks Drive
Approval of Mediated Settlement Agreement in the Section 70.51, Florida Statutes, Proceeding by Leigh B. Broward Regarding the Denial of Minor Replat Application, CDB 19-05, for 1229 Forest Oaks Drive.

Sid Ansbacher, 780 North Ponce de Leon Boulevard, St. Augustine, Attorney for Mr. Broward, stated that Mr. Roth had shown him and Mr. Broward the modifications and they were approved by Mr. Broward to preserve or mitigate the trees.

Mr. Roth reviewed the process of Florida Statutes Section 70.51, where an owner can seek a dispute resolution with the City while maintaining any rights they may have moving forward. It allows time to discuss a potential resolution using a special magistrate to mediate. He continued that he addressed all of the issues that had been brought up at the Community Development Board and Council meetings. This comes before Council in two steps. The first is the mediated settlement agreement which is the special magistrate's recommendation. If that is approved, then the replat based on that recommendation would need to be approved.

Councilor Wiley reported he had attended the hearing on Tuesday, October 8, 2019.

Made by Messinger, seconded by Chin.

MOTION: **TO APPROVE THE MEDIATED SETTLEMENT AGREEMENT, AS MODIFIED**

Roll Call Vote:

Ayes: 5-Wiley, Chin, Messinger, Jones, and Brown
Noes: 0

MOTION CARRIED

Modified Minor
Replat, 1228
Forest Oaks
Drive

Approval of Modified Minor Replat of 1229 Forest Oaks Drive.

Made by Chin, seconded by Messinger.

MOTION: **TO APPROVE THE MODIFIED MINOR REPLAT OF 1229 FOREST OAKS DRIVE**

Roll Call Vote:

Ayes: 5-Chin, Messinger, Wiley, Jones, and Brown

Noes: 0

MOTION CARRIED

Pete's Bar
Thanksgiving Day
Event

Pete's Bar Thanksgiving Day Event - November 28, 2019. Councilor Messinger stated that this event is a great event. He had two concerns from the agreement from last year. There was a lot of trash being created and not being picked up. He requested the hiring of two Neptune Beach Public Works employees for purposes of garbage control for the duration of event at standard rates for such employees for the date of the event.

Councilor Messinger expressed that the City of Neptune Beach, Atlantic Beach and the Beaches Town Center Agency have invested quite a bit of money to refresh the landscaping, irrigation and lighting. He is requesting the hiring of Rockaway, Inc. to install protective fencing around all landscaping and associated components servicing such landscaping and financial responsibility of the participating business for any damage to same.

Made by Chin, seconded by Messinger.

MOTION: **TO APPROVE THE PETE'S BAR THANKSGIVING DAY EVENT AS DISCUSSED BY COUNCIL**

Roll Call Vote:

Ayes: 5- Messinger, Wiley, Chin, Jones, and Brown

Noes: 0

MOTION CARRIED

City Manager
Contract

Approval of City Manager Contract. Mr. Roth explained that there were come changes in the contract presented. The changes included the start date, reimbursement for travel expenses, vehicle allowance, relocation expenses, removal of personal belongings upon termination, and residency.

Made by Messinger, seconded by Wiley.

MOTION: **TO APPROVE THE CITY MANAGER CONTRACT, AS AMENDED**

Roll Call Vote:

Ayes: 5- Wiley, Chin, Messinger, Jones, and Brown

Noes: 0

MOTION CARRIED

Dover, Kohl &
Partners
Agreement

Approval of Agreement for Professional Services for the Comprehensive Plan and Land Development Code Revision with Dover, Kohl & Partners.

Councilor Chin stated he had heard from many residents regarding sticker shock. He remarked that people had difficulty valuing things that are intangible. He expressed that Neptune House was a similar expense and this project would bring greater value for the City. He stated it is 24 months of professional services for the City. It goes towards what vision do we want for our City and going cheaper is cynical and the City deserves more. He also added that there is the option of carving out the services to be done by the City now that we have a Community Development Director. He hopes to find ways to utilize these cost savings.

Councilor Messinger agreed with Councilor Chin. He too had sticker shock but in order to receive grants and help from FDOT, the City must show citizen buy-in, plans and documentation. There was a detailed process that chose Dover, Kohl and they would best articulate Neptune Beach's unique character. The finance director has presented funding sources for this project. He added this is a great value for the citizens of Neptune Beach.

Vice Mayor Jones added that the City of Neptune Beach has been vetting the future on uncertainty and fear. He stated the City needs more self-confidence and more adaptation to change and this is the vehicle to do that. The idea is to have a robust vision for the future owned by the public.

Councilor Wiley commented that the City ranked four firms and Dover, Kohl came out on top. He is questioned the process for choosing the firm. He stated that the City is obligated to issue an RFP. The funding for this project was discussed after the budget was adopted. He added this is a big expense. The funding is not there and he cannot support this.

Mayor Brown stated that the City is rushing into something that new City staff has not had a chance to evaluate and advise Council on. She looked at the funding and those funds are designated for certain expenditures. These are taxpayer dollars and she would like to have the new City Manager and Community Development Director review it.

Made by Brown, seconded by Wiley.

MOTION: **TO POSTPONE THE AGREEMENT WITH DOVER, KOHL AND PARTNERS**

Roll Call Vote:

Ayes: 2- Wiley and Brown
Noes: 3-Chin, Messinger and Jones

MOTION FAILED

Made by Jones, seconded by Messinger.

MOTION: **TO APPROVE THE PROFESSIONAL SERVICES AGREEMENT WITH DOVER, KOHL AND PARTNERS FOR THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REVISION**

Roll Call Vote:

Ayes: 3-Messinger, Chin, and Jones
Noes: 2-Wiley and Brown

MOTION CARRIED

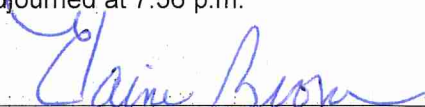
COUNCIL COMMENTS

Councilor Chin clarified that he is all for notifying the public and letting people know what is going on.


Vice Mayor Jones reported he would be in Washington, D.C. representing Neptune Beach in a safety week discussing complete streets.

Adjournment

There being no further business, the meeting adjourned at 7:56 p.m.


Elaine Brown, Mayor

Attest:


Catherine Ponson, City Clerk

Approved:

12/2/19

